

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION AT ST. LOUIS**

BRIDGECREST ACCEPTANCE)	
CORPORATION, an Arizona Corporation,)	
)	
Plaintiff/Counter-claim Defendant,)	
)	
v.)	Civil Action No. 4:21-cv-01096-JCH
)	
RICHARD SADDLER,)	
)	
Defendant/Counter-claim Plaintiff,)	
)	
RICHARD SADDLER)	
)	
Third-party Plaintiff)	
)	
v.)	
)	
DRIVETIME AUTOMOTIVE)	
GROUP, INC., a Delaware Corporation,)	
SILVERROCK GROUP, INC., a Delaware)	
Corporation, and CARVANA, LLC, an)	
Arizona Limited Liability Company,)	
)	
Third-party Defendants.)	
_____)	

MOTION TO REMAND

Bridgecrest Acceptance Corporation (“Bridgecrest”), DriveTime Automotive Group, Inc. (“DriveTime”), SilverRock Group, Inc. (“SilverRock”), and, Carvana, LLC (“Carvana”) (collectively, the “Corporate Parties”), by and through undersigned counsel, hereby respectfully move this Court to remand this matter to the Circuit Court for St. Louis County, Missouri, because this Court does not possess subject matter jurisdiction over this litigation and the Notice of Removal filed by Richard Saddler (“Saddler”) was untimely. Saddler’s purported Answer to Plaintiff’s Petition and Defendant/Third Party Plaintiff’s Counter Complaint (the “Counter-

Complaint”) cannot serve as a basis for removal jurisdiction under federal law. Further, Federal Rule of Civil Procedure 9(b) does not, and cannot, establish federal question jurisdiction pursuant to 28 U.S.C. § 1331.¹ Finally, federal law requires that a notice of removal be filed within thirty (30) days after receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief. 28 U.S.C. § 1446(b). Saddler was served with Bridgecrest’s Petition in the Circuit Court on May 20, 2021, but he failed to file his Notice of Removal until September 2, 2021. As such, the Notice of Removal was not timely. Since it lacks subject matter jurisdiction to entertain this dispute and Saddler’s Notice of Removal was untimely, an order remanding this case to the Circuit Court for St. Louis County, Missouri is appropriate. In further support of this Motion, the Corporate Parties rely upon their contemporaneously filed Memorandum of Law.

WHEREFORE, the Corporate Parties respectfully request that this Court:

- A. Grant this Motion;
- B. Remand this matter to the Circuit Court for St. Louis County, Missouri for further proceedings;
- C. Assess the just costs and actual expenses, including reasonable attorney’s fees, incurred as a result of this removal against Saddler pursuant to 28 U.S.C. 1447(c); and
- D. Award any such other, further, and general relief it deems just and appropriate.

¹ The Corporate Parties intend to seek an order compelling Saddler’s purported claims to arbitration as previously ordered by this Court in the matter of *Saddler v. Carvana, LLC*, No. 4:20-CV-105 HEA, 2020 U.S. Dist. LEXIS 143276 (E.D. Mo. Aug. 11, 2020).

This 29th day of September, 2021.

Respectfully submitted,

/s/ William A. Brasher.
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and

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*Counsel for Bridgecrest Acceptance
Corporation, Carvana, LLC, SilverRock Group,
Inc., and DriveTime Automotive Group, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2021, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system. The party or parties served by mail are as follows:

Richard Saddler
413 Genoa Drive
Manchester, MO 63021

/s/ William A. Brasher .